

Agricultural Marketing Service, USDA

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the funds and property then in its possession or under its control, including claims for any funds unpaid or property not delivered at the time of such termination. The said trustees shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Committee and of the trustees, to such persons as the Secretary may direct; and (c) upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Committee or the trustees pursuant thereto. Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the Committee and upon trustees.

§ 985.74 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued hereunder, or (b) release or extinguish any violation of this subpart or any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

Subpart—Administrative Rules and Regulations

§ 985.104 Changed classes of spearmint oil.

Pursuant to § 985.4, the classes of spearmint oil contained in that section are changed by deleting the term and definition *Class 2 Oil* and changing the definition of *Class 1 Oil*. The changed classes are as follows:

Class 1: Oil extracted from Scotch Spearmint.

Class 3: Oil extracted from Native Spearmint.
Class 4: Oil which has a spearmint flavor, extracted from plants other than Scotch or Native Spearmint.

[48 FR 53400, Nov. 28, 1983]

§ 985.141 Assessment rate.

On and after June 1, 2014, an assessment rate of \$0.09 per pound is established for Far West spearmint oil. Unexpended funds may be carried over as a reserve.

[79 FR 22362, Apr. 22, 2014]

§ 985.152 Handling report.

Whenever an allotment percentage has been established for a class of oil, each handler shall furnish to the Committee at least the following information for each lot of that class of oil acquired by the handler from a producer: (a) Name of producer; (b) name of handler; (c) class of oil acquired; (d) date of acquisition; (e) date when oil was produced; (f) net weight of oil in the lot; (g) quantity of that class of oil in the producer's annual allotment available for handler before this acquisition; and (h) quantity of oil remaining in the producer's annual allotment after this acquisition. This information shall be furnished in such manner as the Committee may prescribe. Upon acquisition the handler or the handler's agent also shall include the applicable information on the back of the producer's Annual Allotment Certificate, showing that the acquired oil was within the unused portion of the producer's annual allotment.

[46 FR 43130, Aug. 27, 1981]

§ 985.153 Issuance of additional allotment base to new and existing producers.

(a) *Definitions.* (1) *New producer* means any person who never was issued an allotment base by the Committee for a class of oil in any capacity either as an individual, or as a member of a partnership, corporation, or any other business unit.

(2) *Existing producer* means any person who was issued an allotment based by the Committee for a class of oil in any capacity either as an individual, or as a member of a partnership, corporation, or any other business unit. Any

person who was initially issued an allotment base for a class of oil and changed identity of operation, as set forth in § 985.53(a), since April 14, 1980, and requests additional allotment base for that class of oil pursuant to this section, shall be deemed to be an existing producer.

(b) *Requests.* Any new or existing producer desiring additional allotment base for any class of oil made available by the Committee pursuant to § 985.53(d)(1) shall request such base by a date specified by the Committee prior to the marketing year for which such base will be made available.

(c) *Issuance—(1) New producers—(i) Regions:* For the purpose of issuing additional allotment base to new producers, the production area is divided into the following regions:

(A) *Region A.* The State of Washington.

(B) *Region B.* All areas of the production area outside the State of Washington.

(ii) The Committee shall review all requests from new producers for additional allotment base made available pursuant to § 985.53(d)(1).

(iii) Each year, the Committee shall determine the size of the minimum economic enterprise required to produce each class of oil. The Committee shall thereafter calculate the number of new producers who will receive allotment base under this section for each class of oil. The Committee shall include that information in its announcements to new producers in each region informing them when to submit requests for allotment base. The Committee shall determine whether the new producers requesting additional base have the ability to produce spearmint oil. The names of all eligible new producers from each region shall be placed in separate lots per class of oil. For each class of oil, separate drawings shall be held from a list of all applicants from Region A and from a list of all applicants from Region B. If, in any marketing year, there are no requests for additional base in a class of oil from eligible new producers in a region, such unallocated additional allotment base shall be issued to an eligible new producer whose name is selected by drawing from a list containing the

names of all remaining eligible new producers from the other region for that class of oil. The Committee shall immediately notify each new producer whose name was drawn and issue that producer an allotment base in the appropriate amount. Allotment base issued to new producers under this section shall not be transferred for at least five years following issuance.

(2) *Existing producers.* (i) The Committee shall review all requests from existing producers for additional allotment base.

(ii) *Class 1 base.* With respect to the issuance of additional Class 1 allotment base to existing producers for the 2014–2015 through the 2016–2017 marketing years, existing producers with less than 5,121 pounds of allotment base as of October 17, 2012, who request additional allotment base and who have the ability to produce additional quantities of Class 1 spearmint oil, shall be issued additional allotment base sufficient to bring them up to a level not to exceed 5,121 pounds: *Provided*, That such additional Class 1 allotment base shall be allocated to eligible producers on a pro-rata basis from available additional Class 1 allotment base: *Provided further*, That additional allotment base shall not be issued to any person if such additional allotment base would replace all or part of an allotment base that such person has previously transferred to another producer. Additional allotment base in excess of the amount needed to bring eligible producers up to 5,121 pounds of Class 1 allotment base shall be distributed on a prorated basis among all existing producers who apply and who have the ability to produce additional quantities of spearmint oil.

(iii) *Class 3 base.* With respect to the issuance of additional Class 3 allotment base for existing producers for the 2014–2015 through the 2017–2018 marketing years, existing producers with less than 5,812 pounds of allotment base as of October 17, 2012, who request additional allotment base and who have the ability to produce additional quantities of Class 3 spearmint oil, shall be issued additional allotment base sufficient to bring them up to a level not to exceed 5,812 pounds: *Provided*, That such additional Class 3 allotment base shall be allocated to eligible producers

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on a pro-rata basis from available additional Class 3 allotment base: *Provided further*, That additional allotment base shall not be issued to any person if such additional allotment base would replace all or part of an allotment base that such person has previously transferred to another producer. Additional allotment base in excess of the amount needed to bring eligible producers up to 5,812 pounds of Class 3 allotment base shall be distributed on a prorated basis among all existing producers who apply and who have the ability to produce additional quantities of spearmint oil.

(iv) For each marketing year after 2016-2017 for Class 1 oil and 2017-2018 for Class 3 oil, each existing producer of a class of spearmint oil who requests additional allotment base, and who has the ability to produce additional quantities of that class of spearmint oil, shall be eligible to receive a share of the additional allotment base issued for that class of oil. Additional allotment base issued by the Committee for a class of oil shall be distributed on a prorated basis among the eligible producers for that class of oil. The Committee shall immediately notify each producer who is to receive additional allotment base by issuing that producer an allotment base in the appropriate amount. Allotment base issued to existing producers under this section shall not be transferred for at least two years following issuance, except that additional allotment base allocated pursuant to paragraph (c)(2)(ii) and (c)(2)(iii) of this section shall not be transferred for at least five years following issuance.

(d) The person receiving additional allotment base pursuant to this section shall submit to the Committee evidence of an ability to produce and sell oil from such allotment base in the first marketing year following issuance of such base.

[47 FR 41332, Sept. 20, 1982, as amended at 50 FR 41480, Oct. 11, 1985; 51 FR 45450, Dec. 19, 1986; 56 FR 51829, Oct. 16, 1991; 57 FR 28595, June 26, 1992; 62 FR 43465, Aug. 14, 1997; 65 FR 30344, May 11, 2000; 68 FR 25486, May 13, 2003; 79 FR 37936, July 3, 2014]

§ 985.154 Issuance of annual allotments.

(a) Each producer who is a registered holder of an allotment base, and desiring an annual allotment for the ensuing marketing year, shall apply to the Committee for that allotment. The registered holder shall furnish at least the following information:

(1) The number of acres of each species (Scotch or Native) of spearmint planted, or intended to be planted for harvest in the ensuing marketing year;

(2) Whether the spearmint to be harvested in the ensuing marketing year is baby mint (first year harvest) or mature mint (second year or older harvest); and

(3) Any changes in location or production as reported for the preceding year.

(b) In order to enable the Committee to insure compliance and verify furnished information, each producer requesting an annual allotment shall permit the Committee or its representatives, whenever necessary, to measure the producer's spearmint acreage.

[46 FR 43130, Aug. 27, 1981]

§ 985.155 Identification of oil by producer.

Following the distillation of oil and prior to delivery either to a handler for handling as salable oil or to the Committee or its designee for storage as excess oil, each producer shall furnish the following information to the Committee: *Provided*, That any class of oil retained by a producer shall be reported to the Committee within 15 days following the completion of its distillation.

- (a) Producer's name and address;
- (b) Date the oil was put into the drum;
- (c) Class of oil in the drum;
- (d) Drum identification number;
- (e) Approximate net weight of the oil;
- (f) Handler's pickup receipt number, when applicable;
- (g) Destination of oil for storage;
- (h) Name of the firm where the oil was distilled; and
- (i) Name of the person submitting the information.

[46 FR 43130, Aug. 27, 1981]